

From Battleground to Common Ground

Religion in the public schools doesn't need to be a flash point for controversy if your district has crafted policies and exercises them

BY CHARLES C. HAYNES

When school leaders ask how they should handle religion in public schools, religious liberty attorney Oliver Thomas begins his answer with this advice: "The time to buy the fire truck is *before* the fire."

As simple as that may sound, it's actually a tough sell in many school districts across the nation. And I should know because Thomas, a former school board member in Tennessee, and I have spent much of the past 20 years trying to persuade school leaders to be proactive on issues involving religion and religious liberty.

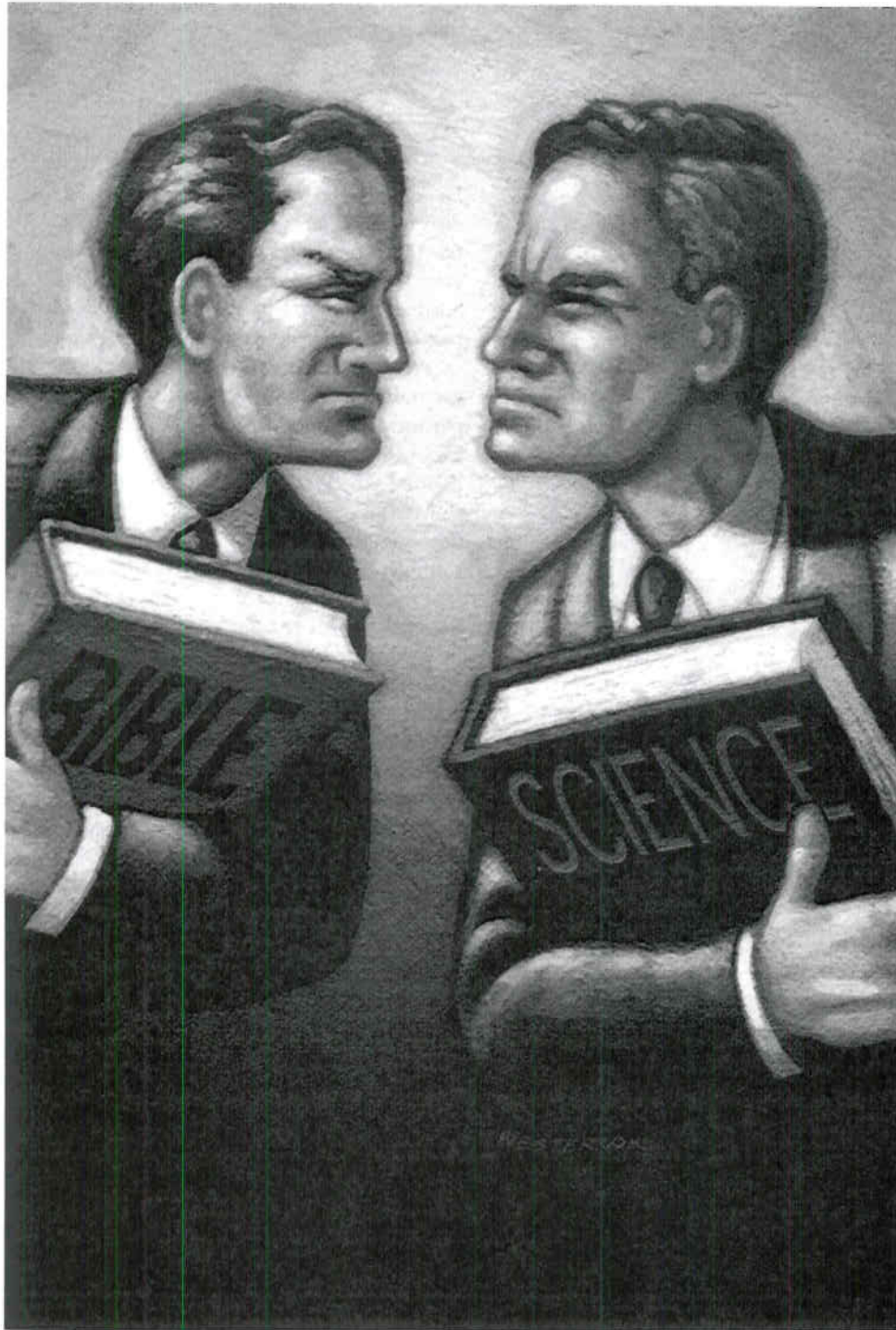
From northern California to southern Florida, we encounter far too many superintendents who are reluctant to touch religion with the proverbial 10-foot pole. Following the let-sleeping-dogs-lie approach to administration, they start to think about First Amendment solutions only after a fight breaks out. By then it's often too late to avert a bitter legal battle that divides the community and erodes support for public education.

Even school districts with "religion policies" buried somewhere on the shelf still get into trouble because nobody remembers what the policies say. Earlier this year we were invited to speak in a large Texas school district that is facing

a lawsuit over how religion is treated in their schools. In the complaint, a number of parents charge (among other things) that their children were prohibited from sharing their faith during the school day. It turns out that all of the alleged violations would not have happened if teachers and administrators had followed existing district policy. But when we asked site administrators about those policies, no one knew about them, much less whether teachers were applying them properly.

By contrast, the school district in Richardson, Texas, was smart enough to buy the fire truck before the fire. Under the leadership of Carolyn Bukhair, superintendent from 1996 through 2004, the district appointed a task force of parents, religious leaders and school staff to develop guidelines for religious practices that cover everything from student prayer to religion in the curriculum. Rather than reacting to a crisis or lawsuit, this superintendent acted out of her conviction that bringing stakeholders to the table and involving them in decision-making creates stronger public schools.

But Richardson's adoption of a comprehensive policy was only the beginning. Bukhair made sure the community was informed about the policies, administrators and teachers received in-service training on the issues and a process



for dialogue was established. The task force became the Religious Practices Advisory Committee charged with addressing religion in the schools on an ongoing basis. Conflicts and challenges still come up in Richardson (that's inevitable in any school district), but the schools and community have a process and a forum for dealing with the issues without litigation and division.

Restorers v. Removers

That sounds good, school leaders often tell me, but what about the culture wars? How can we be pro-active when we are likely to get caught in the crossfire of debates involving deep religious and ide-

ological differences?

On one end of the spectrum are opponents of public schools who rail against "Godless schools where condoms are distributed, but prayer is banned." These are the "Restorers," people determined to bring back the good old days when one religion (historically Protestant Christianity) was preferred in school policies and practices. For growing numbers of the Restorers, public schools are viewed as irredeemable — places where pervasive secularism and hedonism are hostile to their faith. Any evidence that things are changing for the better is rejected because it would undermine their call for an exodus from what some

groups now condemn as "atheistic government schools."

On the other end of the spectrum, there are the "Removers," people determined to scrub every vestige of religion from the classroom. Even modest proposals to improve study about religion in the curriculum are viewed as backdoor efforts to promote religion. Reasonable policies designed to protect students' religious expression are seen as opening the door to evangelization and harassment.

Restorers and Removers alike seize on a few bad stories to paint all public schools with the same brush. Remember the national uproar a few years ago when one teacher in one California school district was accused of proselytizing in the classroom by inserting his religious views into the teaching of history? The Removers magnified the incident to underscore the dangers of dealing with religion in the curriculum. Meanwhile, the Restorers used it in fundraising letters to illustrate public school hostility to Christians.

The challenge for school leaders is to take back this debate from the extremes. Ignoring religion, hoping that somehow the conflicts will pass you by, only makes matters worse. Ugly fights and expensive lawsuits are rare in school districts like Richardson. They are much more likely in districts that have their collective heads in the sand.

Safe Harbor

Two decades ago, it was easier to understand why superintendents and school boards wanted to ignore religion. Back then there was no national consensus on what to do about religion in the curriculum or how to deal with the religious liberty claims of students and parents. Many schools were close to becoming religion-free zones, places where textbooks were largely silent about religion and students were often told to leave their religion at the schoolhouse door. Meanwhile, other schools continued to promote religion (the majority religion) in defiance of court rulings striking down school-sponsored religious practices. Few public schools got it right.

That was 20 years ago. Today, coalitions of religious and educational groups have endorsed First Amendment guidelines on everything from religious holidays to the Bible in public schools. And



High school students in Annandale, Va., circle the flag pole in front of their school during National Student Prayer Day.

most state standards and textbooks, especially in the social studies, include considerable mention of religion. As a result, superintendents and school boards now have a constitutional safe harbor for developing local policies and practices on the proper role for religion in the schools.

What does the “safe harbor” look like? Start with the consensus guidelines sent to every public school principal in January 2000 by the U.S. Department of Education (three of the five booklets in the mailing were First Amendment Center publications). For the first time, all schools received directives on permissible student religious expression, guidance for teachers on treatment of religion in the curriculum, legal ground rules for cooperative relationships between religious communities and public schools and advice for parents on a range of issues involving religion and values in schools.

The guidance sent out in 2000 is still good law today. The advice they give isn’t from the left or the right; it is supported by most education associations and by a wide spectrum of religious and advocacy groups from the Anti-Defamation League to the National Association of Evangelicals.

At the core of the national agreements is a clear distinction between school-sponsored speech endorsing religion, which the Establishment clause of the First Amendment forbids, and student religious speech, which the free-speech and free-exercise clauses protect. This means two things:

1. School officials must be neutral in their treatment of religion — neither

inculcating nor denigrating religion. Public schools can (and should) teach *about* religion, where appropriate, as part of a complete education. Such teaching must be fair, objective and based on sound scholarship.

2. Students, however, are free to pray alone or in groups, read their scriptures and discuss their faith as long as they aren’t disruptive and don’t infringe upon the rights of others. Students also may distribute religious literature, subject to reasonable time, place and manner restrictions, and express their views about religion in class assignments as long as doing so is relevant to the subject under consideration and meets the requirements of the assignment. In secondary schools, students may form religious clubs if the school allows other extracurricular student clubs.

The widespread myth that the First Amendment bans God from the public schools may be popular fodder for attacking public schools, but it simply isn’t true.

New Guidance

Unfortunately, by ignoring the national agreements many educators have become their own worst enemy. The Clinton era guidance could have prevented innumerable conflicts, but the guidelines were overlooked by many local schools.

Frustrated by the failure of school districts to be more pro-active about protecting the religious liberty rights of students (and perhaps eager to score political points about school prayer), Congress in 2002 directed the U.S.

Department of Education to write and disseminate new guidelines on “constitutionally protected prayer” with the proviso that school districts must certify annually they are in compliance — or risk losing federal funding.

As a result, superintendents now are generally more aware of what is and isn’t permissible under current law. But this awareness doesn’t necessarily trickle down. In visits to school districts around the nation, I find that everyone “certifies” compliance, but few have developed sound local policies or offered adequate in-service training to ensure building principals and teachers know how to deal with religious issues.

Although the Bush-era guidance tracks much of what is found in the national agreements of the 1990s, watchdog groups such as Americans United for Separation of Church and State argue that the new guidelines go too far by endorsing student religious expression at school-sponsored events. Even though the lower courts are divided on where schools should draw the line on student religious speech at graduation and other school programs, the DOE now takes the position that school officials may not restrict students’ religious (or anti-religious) speech if student speakers are selected by “genuinely neutral, even-handed criteria” and students retain “primary control” over the content.

It’s fair to say that the new DOE guidelines push in the direction of encouraging school officials to allow more student religious expression before captive audiences at school events and in classrooms. In the view of some civil liberties groups, the DOE is stating what it wants the law to be rather than where the law actually is under current Supreme Court rulings. Nevertheless, most First Amendment experts would probably agree that if the school creates a “free-speech forum” at school events, during which time students are free to express themselves religiously or otherwise, schools may not censor religious or anti-religious speech. Of course, many administrators will view this approach as risky since such a forum would have to be open to all kinds of speech, including speech critical of religion or the school.

This disagreement about how to handle student religious expression in front

of a captive audience is a reminder that some questions about what the law requires in a public school are still contested. Nevertheless, most of the current DOE guidance as well as the earlier guidelines endorsed by many national groups reflect broad consensus on most issues involving religion in the schools. If translated into local policies and practices, these agreements can help school districts build trust and support in the wider community.

Extinguishing Fires

Karl Springer, superintendent in Mustang, Okla., learned all about how to use national guidelines to reach local agreement the hard way. Two years ago, Springer was advised by the school district's lawyer that the nativity scene in the Christmas pageant at an elementary school was probably unconstitutional. Concerned about exposing the district to a lawsuit (and wanting to do the right thing under the First Amendment),

Springer cancelled the nativity scene.

Not surprisingly, many of the folks in the conservative, largely Christian town of Mustang were outraged. Soon the national news media picked up the story and Springer found himself in the middle of a superintendent's worst nightmare. Hundreds of e-mails from around the nation filled his in-box daily (attesting to the power of the Internet to turn a local incident into a national campaign). Overnight, Springer became

Taking Religion Seriously in the Curriculum

Despite years of agreement by national groups on the importance of study about religion, many local school boards, administrators and teachers remain wary of in-depth treatment of religion in the curriculum. Questions abound: Can we increase teaching about religion without triggering a fight? What would be the impact on students? How would parents react?

Until recently, answers to these questions have been largely anecdotal based on positive stories of well-received electives in world religions and successful teachers who cover religion in history and literature courses - as well as negative accounts of fights over Bible electives, religion in textbooks and the occasional flare-ups over teachers mishandling religion in the classroom.

But a new study, "Learning about World Religions in Public Schools," gives us some empirical data about the educational effects of study about religion in a public school setting. Researchers Emile Lester and Patrick S. Roberts focused on a required world religions course in Modesto, Calif. (the only required public school religion course in the nation).

According to the study published by the First Amendment Center, taking a world religions course increases student support for the rights of others. Moreover, students leave the course with a greater understanding of the major world religions and a fuller appreciation of the core moral values shared across traditions. At the same time, learning about various religions does not encourage students to change their own religious convictions. Most remarkable of all, perhaps, the course has been widely supported in the Modesto community.

Elective Offerings

Although few public schools are likely to require courses in religion anytime soon, the Modesto example may inspire more high schools to offer electives in world religions. Some districts are already doing just that. The Fairfax County, Va., Public Schools has encouraged in-depth study of world religions since the late 1990s. In addition to the considerable coverage of world religions in the required world history course (as mandated by Virginia's history standards), Fairfax County has elective courses in a growing number of the district's high schools. Last year, seven of the district's 25 high schools as well as two alternative schools offered courses on world religions.

Electives in world religions rarely provoke controversy. Unfortunately, the same can not be said about electives on the Bible. Over the past decade, conflicts have broken out in many school districts over proposals for Bible courses. This is not surprising, given our long history of fighting over the role of the Bible in public schools from the "Bible wars" of the 19th century to the lawsuits of the 21st.

If the issue were only Bible literacy, then finding agreement on the importance of learning about the Bible might be easy. After all, how can students understand much of what they see in museums, read in literature or encounter in history and current events if they are biblically illiterate? But some of the pressure for Bible courses comes from groups with a religious agenda accompanied by curriculum materials that promote one religious view of the Bible. If school districts go down this unconstitutional path, they risk winding up in court.

Meritorious Text

Fortunately, there is an alternative. Last year, the Bible Literacy Project released a new textbook, *The Bible and Its Influence*, in an effort to provide an academically sound presentation of the themes, narratives and characters of the Hebrew Scriptures and New Testament. The text also covers how the Bible has been used in art, literature, music and history, exposing students to a wide range of topics from Handel's "Messiah" to Abraham Lincoln and the Bible.

Whether it's a good idea to offer a Bible elective is a question for local school leaders and school board members to decide. But any public school that contemplates a Bible course first must understand what the First Amendment requires: Student materials that are scholarly, age-appropriate and objective taught by teachers prepared to teach an academic course in the Bible. *The Bible and Its Influence* is a good place to start.

If school districts are serious about religious literacy (as they should be), then there are ways to teach about religions that are constitutionally permissible and educationally sound. Doing this right requires high academic standards and adequate teacher preparation. But it's worth the effort. After all, the United States is now the most religiously diverse society on earth and, among developed nations, the most religious. If we don't tackle study of religion in our public schools, how we will live with our deepest differences in the 21st century?

— Charles Haynes

Exhibit A in the national debate over the so-called “war on Christmas.” To add injury to insult, voters went to the polls two weeks after Springer’s decision where they defeated an \$11 million bond issue for the schools.

Part of Springer’s problem was bad timing. The worst time to cancel a time-honored popular tradition is right before the event. If at all possible, school leaders would be wise to wait until January before tackling the December dilemma.

But what the nativity scene conflict uncovered was a much larger problem: The district had no policies on how to address religion in December or at any other time of the year. Without the policy fire truck (and training on how to use it), school officials are sitting on a culture-war powder keg. If not Christmas, then graduation prayer, student clubs, distribution of religious literature or any number of other brush fires are bound to ignite.

Fortunately, Springer and the Mustang school board had the wisdom to turn a crisis into an opportunity. With some initial help from the First Amendment Center, Springer and the board created a community task force of religious leaders, parents and educators to develop a comprehensive religious liberty policy. After months of hard work, the task force completed — and the school board adopted — guidelines that focus on how to teach about religion (and not just in December) and outline



Charles Haynes

in detail the religious liberty rights of students.

Like Richardson, Mustang has followed up with in-service training for administrators and teachers to ensure full implementation of the policy. Today, two years after the bitter conflict over the nativity scene, Mustang schools are dealing with religion in ways that neither impose religion nor exclude it. Religion and religious conviction are treated with fairness and respect. It took a crisis to make it happen, but the citizens of Mustang have moved from battleground to common ground.

Escalating Conflicts

Mustang’s experience is yet another reminder that public schools have become front lines in our culture war over religion. No longer are the conflicts confined to the perennial December dilemma or school prayer. Today, almost anything can trigger a clash of world views across deep religious and ideolog-

ical differences.

Consider the current push for Bible electives. Competing Bible bills are popping up in state legislatures around the nation (one passed in Georgia earlier this year). If this movement were only about Bible literacy, then legislation wouldn’t be necessary since most districts are free to propose electives now. But the Bible bills appear to be less about education and more about partisan politics and stealth attempts to promote one religious view of the Bible in public schools.

Or consider the escalating conflicts involving sexual orientation in the curriculum, student clubs, speech codes and other areas of school life. A “day of silence” to protest treatment of gays and lesbians is now followed by a “day of truth” to promote conservative religious views of homosexuality. A T-shirt proclaiming “straight pride” is worn to counter one professing “gay pride.” School officials often are caught in the middle, struggling to find ways to uphold the rights of all students in a safe learning environment.

And, of course, who can ignore the latest challenge to evolution in the science curriculum from the advocates of intelligent design? Although a federal judge in Pennsylvania struck down as unconstitutional the Dover school district’s inclusion of intelligent design in the biology classroom, the fight is far from over. Efforts are currently under way in many states to mandate teaching criticism of evolution (or “scientific alternatives”) in science courses. More lawsuits are inevitable.

All of these conflicts involve strong religious and philosophical convictions (on all sides) — and none are easy to negotiate. Although national organizations have developed consensus guidelines on some of these issues — including “The Bible and Public Schools” and “Public Schools and Sexual Orientation” — local school districts need their own policies and practices built on First Amendment principles.

Generating Support

In Richardson, Mustang, and other school districts, the following strategies have been used to create policies and practices that are widely supported in the community:

Additional Resources

These materials on teaching about religion in public schools are recommended by Charles Haynes of the First Amendment Center:

- The report “Learning about World Religions in Public Schools: The Impact on Student Attitudes and Community Acceptance in Modesto, Calif.” by Emile Lester and Patrick S. Roberts is available at www.firstamendmentcenter.org.
- Details about the world religions courses electives in Fairfax County, Va., Public Schools are available from Russell Phipps, social studies coordinator, at Russell.Phipps@fcps.edu.
- To learn more about the textbook, *The Bible and Its Influence*, visit the website of the Bible Literacy Project at www.bibleliteracy.org.

► The Religion and Public Education Resource Center at California State University, Chico, offers extensive materials for teaching about religions. Contact Professor Bruce Grelle of the department of religious studies at bgrelle@csuchico.edu.

► The Council on Islamic Education, a nonprofit resource organization, provides information on Islam and Muslim history to K-12 educators at www.cie.org.

► Teaching About Religion in Public Schools: World-view Education at www.teachingaboutreligion.org is a website designed to assist middle and secondary level history and social studies teachers in their handling of religion as curricular subject matter.

► *Religion in American Life*, a series of scholarly works on religion written for young readers, is published by Oxford University Press (www.oup.com/us).

► *Create a common ground task force to address issues involving religion in the schools.*

The group should be appointed by the school board and consist of representatives with a broad range of backgrounds and viewpoints. By building relationships among people with opposing views, the task force builds trust and mutual respect that can translate into a shared vision for religious liberty in the schools.

► *Agree on civic ground rules and understand current law.*

A good starting point is for the task force to affirm the rights and responsibilities that flow from the First Amendment. Religious liberty and freedom of expression are fundamental rights for all. Public schools should be places where every effort is made to protect these rights for every student and parent. Moreover, American citizens have a civic responsibility to respect those rights for others, including those with whom we deeply disagree.

► *Include representatives from all of the stakeholders.*

Because public schools belong to all citizens, they must model the democratic process and constitutional principles when addressing issues involving religion and religious liberty.

► *Commit to civil debate.*

Conflict and debate are vital to any democracy. Yet if we are going to live with our deep differences, then *how* we debate, not only *what* we debate is critical. Personal attacks, name-calling and similar tactics tear apart the community and undermine the mission of schools. All parties must agree to treat one another with civility and respect and should strive to be accurate and fair.

► *Work for comprehensive policies.*

It is helpful to start deliberations where agreement is most likely to be achieved. Most people, for example, can agree on the importance of including appropriate study about religion in the curriculum. And most people can agree to guidelines for student religious clubs and student religious expression under current law.

► *Follow through.*

The community must be informed on a regular basis of policies and practices concerning religion and religious liberty in the schools. It is also essential that

policies be implemented with adequate staff development for teachers and administrators.

Bringing the community together to find common ground takes commitment, courage and hard work. Is it risky? Of course. But the greater risk is to do nothing. Only by being proactive, by taking the First Amendment seriously, will superintendents and school boards keep their districts from

becoming the next battleground in the culture wars.

Oliver Thomas is right. If we care about the future of public education, the time to buy the fire truck is before the fire. ■

Charles Haynes is a senior scholar with the Freedom Forum First Amendment Center, 1101 Wilson Blvd., Arlington, VA 22209. E-mail: chaynes@freedomforum.org

Consensus Guidelines for Public Schools

The following guides relating to religion and religious liberty in the public schools have been endorsed by leading religious, educational and civil liberties organizations. They are available at no cost from the First Amendment Center (703-284-2809 or www.firstamendmentcenter.org):

► "Religious Liberty, Public Education, and the Future of American Democracy: A Statement of Principles"

► "A Parent's Guide to Religion in the Public Schools"

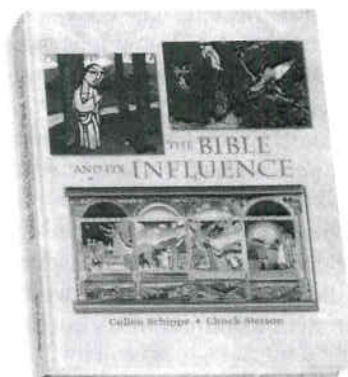
► "A Teacher's Guide to Religion in the Public Schools"

► "Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground"

► "The Bible and Public Schools: A First Amendment Guide"

► "Public Schools and Religious Communities: A First Amendment Guide"

UNIQUE NEW TEXTBOOK FOR ACADEMIC STUDY OF THE BIBLE IN PUBLIC HIGH SCHOOLS



THE ACADEMIC BIBLE ELECTIVE
FOR PUBLIC HIGH SCHOOLS

- * MEETS LEGAL STANDARD SET BY AASA
- * USED NATIONWIDE
- * ACCLAIMED BY NATIONAL MEDIA
- * ONLINE TEACHER TRAINING
- * FREE TEACHER'S EDITION WITH 25 CLASS BOOKS

Endorsed by heads of:
American Jewish Congress
Catholic Biblical Association
National Association of Evangelicals

"Top notable book for 2005."
ASSOCIATED PRESS

"An outstanding resource for public schools."
CHARLES HAYNES, SENIOR SCHOLAR,
FIRST AMENDMENT CENTER

Professors at Yale,
Harvard, and Princeton say:
"Students need to know the Bible."
BIBLE LITERACY REPORT II: JUNE 2006

BIBLE LITERACY PROJECT
An educated person is familiar with the Bible

FREE SHIPPING FOR AASA READERS AT:
WWW.BIBLELITERACY.ORG/GO/AASAOCT
School sales (toll-free): 866-805-6574

© 2006 by BLP Publishing